

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CRYSTAL MUÑOZ, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:21-cv-0824
§ JURY
THE KROGER CO. §
§
Defendant. §

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant, The Kroger Co. (“Kroger”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removing the above-captioned case to the United States District Court for the Southern District of Texas, Houston Division. The grounds for removal are as follows:

I. Introduction

1. Plaintiff Crystal Muñoz (“Plaintiff”), at the time this action was commenced, was, and still is, a resident and a citizen of Texas.

2. Kroger, at the time this action was commenced, was, and still is, a resident and a citizen of Ohio.

3. Plaintiff claims that on or about July 13, 2019 she was shopping in the Kroger Supermarket, located at 4000 Polk Street, in Houston, Texas 77023, when she slipped on a wet substance on the floor. Plaintiff’s Original Petition, para. 4.1. Plaintiff contends that she suffered severe injuries as a result of same. *Id.*

4. On or about February 5, 2021, Plaintiff commenced a lawsuit in the 125th Judicial District Court of Harris County, Texas, Cause No. 2021-07528, styled *Crystal Munoz v. Kroger Texas, LP*. at p. 1. Defendant was served on or about February 11, 2021.

5. Plaintiff avers, inter alia, that Kroger was negligent in failing to maintain the area in question. *Id.* at p. 2. Consequently, Plaintiff seeks to recover damages for negligence. *Id.*

II. Grounds for Removal

A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.00.

6. Plaintiff is a citizen and a resident of Texas. Kroger is a citizen and a resident of Ohio. Thus, the parties are completely diverse. *See* 28 U.S.C. § 1332(a).

7. Plaintiff is seeking damages in excess of \$75,000.00. In particular, Plaintiff's petition seeks "a sum in excess of two hundred thousand dollars but not to exceed one million dollars". *See* Plaintiff's Original Petition, para 6.3. Therefore, the amount in controversy exceeds \$75,000.00.

B. Venue is Proper in This Division and in This District.

8. Plaintiff filed this action in Harris County, Texas. The Houston Division of the Southern District of Texas encompasses Harris County, Texas. Thus, this district and division embrace the place where the state court action is pending. *See* 28 U.S.C. §1441(a).

III. Procedural Requirements for Removal

9. This Notice of Removal is filed within thirty days of the date on which Defendant received the summons and complaint. Thus, this Notice of Removal is timely. *See* 28 U.S.C. § 1446(b).

10. Copies of all processes, pleadings, and orders have been filed separately with this Court. *See* 28 U.S.C. § 1446(a).

11. Pursuant to Local Rule 81 of the Southern District of Texas, the following documents are attached to this Notice of Removal: copy of all processes, attached hereto as Exhibit "A"; all pleadings and orders signed by the Judge attached hereto as Exhibit "B"; an Index of Matters Being Filed, attached hereto as Exhibit "C"; and a list of all Counsel of Record, including addresses, telephone numbers and parties represented is attached hereto as Exhibit "D".

12. A copy of this Notice of Removal will be filed with the Harris County District Clerk's office promptly and will be served on Plaintiff promptly. *See* 28 U.S.C. § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005) (Crone, J).

13. The filing fee has been paid to the Clerk.

IV. Prayer

14. WHEREFORE, PREMISES CONSIDERED, Defendant The Kroger Co. prays that the above-styled action now pending in the 125th Judicial District Court of Harris County, Texas be removed there from to this Honorable Court.

15. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff's Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully submitted,

GERMER, PLLC

By: /s/ Valerie Ly
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**ATTORNEYS FOR DEFENDANT
THE KROGER CO.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been duly sent via CM/ECF on March 12, 2021 to all counsel of record.

/s/ Valerie Ly
Valerie Ly